REMARKS

Claims 1 – 22 are pending in the application. Claims 1 – 22 have been rejected. Claims 1 and 17 have been amended.

Claims 17, 18, 19 and 20 stand rejected under 35 U.S.C. § 101. Claim 17 has been amended to address this rejection.

Claims 1, 2, 7, 9, 10, 11, 14, 21 and 22 stand rejected under Armstrong et al., U.S. Patent No. 5,627,973 (Armstrong). Claims 12, 13, 15, 16, 17, 18, 19 and 20 stand rejected under "Supply Chain Council's Webpage Newsletter of November 1998 describing PRTM's Online Supply-Chain Benchmarking, Pages 4 – 5" (Reference A), "PRTM Webarchive.org webpage dated December 5, 1998" (Reference B), and "Supply Chain Council presentation of May 12, 1999" (Reference C), (all generally referred to as the PTRM documents). Claims 3 – 6 stand rejected under Armstrong, in view of the PTRM document.

The present invention generally relates to evaluating a customer's suppliers. The invention teaches a method for electronically compiling analysis of a supplier's performance from team members, the supplier and a team leader. The invention discloses several measures of efficiency of each supplier and further discloses reports to compare suppliers to other suppliers of the same, or similar, components. Additional reports can be generated to show historical trend of the supplier's performance. An embodiment of the invention allows suppliers to review their final scorecards and compare their scorecards to other suppliers of the same, or similar, components.

More specifically, the present invention, as set forth by independent claim 1, relates to a method for a customer to evaluate supplier performance which includes receiving a first evaluation of the supplier submitted electronically by a team member of a customer of the supplier into a customer website, receiving a second evaluation of the supplier submitted electronically by a team leader of the customer into a customer website, receiving a third evaluation of the supplier submitted electronically by the supplier into a customer website, and generating an indicia of a supplier's performance based on the first, second and third evaluation.

The present invention, as set forth by independent claim 9, relates to a system for evaluating a supplier which includes a computer system. The computer system includes a computer program product encoded in computer readable media and is operable to receive a first evaluation of a supplier submitted by a team member of a customer of the supplier, receive a second evaluation of the supplier submitted by a team leader of the customer, receive a third evaluation of the supplier submitted by the supplier and generate an indicia of the supplier's performance based on the first, second and third evaluation.

The present invention, as set forth by independent claim 12, relates to a method for evaluating supplier performance which includes receiving a first evaluation of the supplier submitted electronically by a team member of a customer of the supplier, receiving a second evaluation of the supplier submitted electronically by a team leader of a customer of the supplier, and generating an indicia of the supplier's performance based upon the first and second evaluation.

The present invention, as set forth by independent claim 14, relates to a computer program product encoded in computer readable media. The computer program product includes instructions, executable on a computer system, configured to receive a first evaluation of a supplier submitted electronically by a team member of a customer of the vendor, receive a second evaluation of a supplier submitted electronically by a team leader of the customer, receive a third evaluation of the vendor submitted electronically by the vendor and generate an indicia of the vendor's performance based upon the first, second and third evaluations.

The present invention, as set forth by independent claim 15, relates to a system for evaluating a supplier which includes a computer system. The computer system includes a data storage device. The data storage device stores data for a supplier performance among suppliers supplying a class of components and includes data representing quality of components supplied by each supplier, data representing cost of components supplied by each supplier, data representing availability of the components from each supplier, data representing service performance of each supplier, and data representing a top performing vendor among the suppliers supplying the class of components.

The present invention, as set forth by independent claim 17, relates to a method of evaluating the performance of a supplier. The performance of the supplier is determined from at least one of a group, comprising determining a best supplier in the class of suppliers, wherein the class of suppliers are those suppliers supplying a component to a manufacturer and wherein the determination is performed by a computer system.

The present invention, as set forth by independent claim 21, relates to a method of evaluating the performance of a supplier. The performance of the supplier is determined from at least one of a group consisting of receiving a first evaluation of the supplier submitted electronically by a team member of a customer of the supplier, receiving a second evaluation of the supplier submitted electronically by a team leader of the customer, and generating an indicia of a supplier's performance based on the first and second evaluation.

The Examiner has stated that the terms "supplier", "team leader", "team member" and "customer" are not granted any patentable weight and are considered to be non-functional descriptive material in the claim" (Office action, page 4.) Applicants respectfully submit that these terms should not be considered non-functional descriptive material. When discussing non-functional descriptive material, the MPEP sets forth

> Claims to computer-related inventions that are clearly nonstatutory fall into the same general categories as nonstatutory claims in other arts, namely natural phenomena such as magnetism, and abstract ideas or laws of nature which constitute "descriptive material." Abstract ideas, *Warmerdam*, 33 F.3d at 1360, 31 USPQ2d at 1759, or the mere manipulation of abstract ideas, *Schrader*, 22 F.3d at 292-93, 30 USPQ2d at 1457-58, are not patentable. Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data. ((MPEP 2106 (IV)(B)(1).)

In the present application, the terms "supplier", "team leader", "team member" and "customer" impart functionality to the claims based upon the interaction of each of these terms with the claim as a whole. For the purposes of the claims, a customer may evaluate the

performance of a supplier based upon input from a plurality of sources (a suppler, a team member and a team leader), the customer may then generate indicia of the supplier's performance based upon the input of the parties. Accordingly, these terms, when read in the context of the claim as a whole, further limit the invention as claimed and thus should be granted patentable weight.

Armstrong discloses evaluating business opportunities for supplying goods and services (such as business forms and services) to potential customers. Armstrong discloses a quantitative approach that allows a user to evaluate a potential customer's needs, and the user's ability to supply those needs, to see what the area of opportunity for the user to supply that need is. Calculations can also be made comparing the user's ability to fulfill the needs to some absolute standard, to also determine an area of emerging technology. A series of questions relating to the customer's level of sophistication for predefined business techniques in a number of different categories are inputted into a computer, as well as the responses, and weights and values are assigned to the question responses to indicate a level of sophistication for each possible response of each business technique for each separate category. The user's capability of supplying the potential customer's needs are also evaluated and this data is inputted into a second computer which calculates, taking into account the weights and values, for each separate category a potential customer's score, the user's score, and the area of opportunity (which is the difference between the customer's score and the user's score). Then using a computer controlled printer, the calculations are printed out in graphical form on a sheet of paper, along with other human readable indicia, from which an evaluation of the opportunity, as well as a tool to close a business deal, are supplied.

Reference A of the PRTM documents discloses that the performance measurement group (PMG), a subsidiary of Pittiglio Rabin Todd & McGrath (the PRTM organization), has been selected to undertake a new benchmarking study. The benchmarking study is intended to provide an online subscription series to map companies supply-chain data to a predefined council model. The subscription series is intended to offer cross industry reports that analyze key drivers of supply-chain performance, key metrics for measuring overall supply-chain performance and drilling down into specific functional areas, comparative performance data from companies of a variety of industries, best practices of top performers and online historical supply-chain

benchmarking data for trending purposes (Reference A, pages 4 and 5.) Reference B of the PRTM documents sets forth an apparent marking document of the PRTM organization which discusses benchmarking studies that PRTM conducts for its clients. Reference C of the PRTM documents discloses a slide presentation which presents a representative analysis of a supply chain scorecard. The metrics include data on delivery performance and quality, flexibility and responsiveness, cost and assets. (Reference C, page 22.)

When relying upon the PRTM documents, the examiner has stated that certain elements of the claim are inherently disclosed by the PRTM documents. For example, the examiner states that

> It is inherent in this service that subscribers submit data to be evaluated against other participants in the benchmarking service. PRTM has no other mechanism for gaining normally proprietary benchmarking data from which to construct a database of comparison data and so requires subscribers to enter their own performance data prior to provided access to customizable online reports that compare the performance of the subscriber with those within either their own industry group or a custom population across industry groups. (Office action, page 7.)

The examiner also states

> It is inherent that web services, i.e. computers that host web pages on the Internet, contain a data storage device as part of their construction. It is also inherent that the data storage device disclosed by PRTM stores data for supply-chain performance. (Office action, page 8.)

Applicant's respectfully submit that these elements of the claims are not inherently disclosed by the PRTM documents. For arguments based on inherency to stand, there must be supporting teaching in the underlying reference. It the present case, the PRTM documents do not provide any supporting teaching from which the inherency can be derived. Thus in the case of the PRTM documents, just because the PRTM documents do not disclose a mechanism for obtaining benchmarking data, it does not necessarily follow that subscribers would enter data regarding their own performance. It certainly does not follow that this data would be obtained from multiple specific sources including a team member, a team leader and a supplier. (See generally MPEP 2112.)

Armstrong and the PRTM documents, taken alone or in combination, do not teach or suggest a method for a customer to evaluate supplier performance which includes receiving a first evaluation of the supplier submitted electronically by a team member of a customer of the supplier into a customer website, receiving a second evaluation of the supplier submitted electronically by a team leader of the customer into a customer website, receiving a third evaluation of the supplier submitted electronically by the supplier into a customer website, and generating an indicia of a supplier's performance based on the first, second and third evaluation, all as required by claim 1. Accordingly, claim 1 is allowable over Armstrong and the PRTM documents. Claims 2 - 8 depend from claim 1 and are allowable for at least this reason.

Armstrong and the PRTM documents, taken alone or in combination, do not teach or suggest a system for evaluating a supplier which includes a computer system. The computer system includes a computer program product encoded in computer readable media and is operable to receive a first evaluation of a supplier submitted by a team member of a customer of the supplier, receive a second evaluation of the supplier submitted by a team leader of the customer, receive a third evaluation of the supplier submitted by the supplier and generate an indicia of the supplier's performance based on the first, second and third evaluation, all as required by claim 9. Accordingly, claim 9 is allowable over Armstrong and the PRTM documents. Claims 10 and 11 depend from claim 9 and are allowable for at least this reason.

Armstrong and the PRTM documents, taken alone or in combination, do not teach or suggest a method for evaluating supplier performance which includes receiving a first evaluation of the supplier submitted electronically by a team member of a customer of the supplier, receiving a second evaluation of the supplier submitted electronically by a team leader of a customer of the supplier, and generating an indicia of the supplier's performance based upon the first and second evaluation, all as required by claim 12. Accordingly, claim 12 is allowable over Armstrong and the PRTM documents. Claim 13 depends from claim 12 and is allowable for at least this reason.

Armstrong and the PRTM documents, taken alone or in combination, do not teach or suggest a computer program product encoded in computer readable media. The computer program product includes instructions, executable on a computer system, configured to receive a

first evaluation of a supplier submitted electronically by a team member of a customer of the vendor, receive a second evaluation of a supplier submitted electronically by a team leader of the customer, receive a third evaluation of the vendor submitted electronically by the vendor and generate an indicia of the vendor's performance based upon the first, second and third evaluations, all as required by claim 14. Accordingly, claim 14 is allowable over Armstrong and the PRTM documents.

Armstrong and the PRTM documents, taken alone or in combination, do not teach or suggest a system for evaluating a supplier which includes a computer system. The computer system includes a data storage device. The data storage device stores data for a supplier performance among suppliers supplying a class of components and includes data representing quality of components supplied by each supplier, data representing cost of components supplied by each supplier, data representing availability of the components from each supplier, data representing service performance of each supplier, and data representing a top performing vendor among the suppliers supplying the class of components, all as required by claim 15. Accordingly, claim 15 is allowable over Armstrong and the PRTM documents. Claim 16 depends from claim 15 and is allowable for at least this reason.

Armstrong and the PRTM documents, taken alone or in combination, do not teach or suggest a method of evaluating the performance of a supplier. The performance of the supplier is determined from at least one of a group, comprising determining a best supplier in the class of suppliers, wherein the class of suppliers are those suppliers supplying a component to a manufacturer wherein the determining is performed by a computer system, all as required by claim 17. Accordingly, claim 17 is allowable over Armstrong and the PRTM documents. Claims 18 - 20 depend from claim 17 and are allowable for at least this reason.

Armstrong and the PRTM documents, taken alone or in combination, do not teach or suggest a method of evaluating the performance of a supplier. The performance of the supplier determined from at least one of a group consisting of receiving a first evaluation of the supplier submitted electronically by a team member of a customer of the supplier, receiving a second evaluation of the supplier submitted electronically by a team leader of the customer, and generating an indicia of a supplier's performance based on the first and second evaluation, all as

required by claim 21. Accordingly, claim 21 is allowable over Armstrong and the PRTM documents. Claim 22 depends from claim 21 and is allowable for at least this reason.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on February 7, 2005.

Attorney for Applicant(s) — Date of Signature: 2/7/05

Respectfully submitted,

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